

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
HOUSE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 220

96TH GENERAL ASSEMBLY

2011

1039L.02T

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## AN ACT

To repeal sections 429.015 and 516.098, RSMo, and to enact in lieu thereof three new sections relating to liens for architects, professional engineers, land surveyors, and landscape architects.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 429.015 and 516.098, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 429.015, 516.098, and 537.033, to read as follows:

429.015. 1. Every registered architect or corporation registered to practice architecture, every registered professional engineer or corporation registered to practice professional engineering, every registered landscape architect or corporation registered to practice landscape architecture, and every registered land surveyor or corporation registered to practice land surveying, who does any landscape architectural, architectural, engineering or land surveying work upon or performs any landscape architectural, architectural, engineering or land surveying service directly connected with the erection or repair of any building or other improvement upon land under or by virtue of any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, upon complying with the provisions of this chapter, shall have for such person's landscape architectural, architectural, engineering or land surveying work or service so done or performed, a lien upon the building or other improvements and upon the land belonging to the owner or

**EXPLANATION—**Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 lessee on which the building or improvements are situated, to the extent of [one  
19 acre] **three acres**. If the building or other improvement is upon any lot of land  
20 in any town, city or village, then the lien shall be upon such building or other  
21 improvements, and the lot or land upon which the building or other  
22 improvements are situated, to secure the payment for the landscape architectural,  
23 architectural, engineering or land surveying work or service so done or  
24 performed. For purposes of this section, a corporation engaged in the practice of  
25 architecture, engineering, landscape architecture, or land surveying, shall be  
26 deemed to be registered if the corporation itself is registered under the laws of  
27 this state to practice architecture, engineering or land surveying.

28 2. Every mechanic or other person who shall do or perform any work or  
29 labor upon or furnish any material or machinery for the digging of a well to  
30 obtain water under or by virtue of any contract with the owner or lessee thereof,  
31 or such owner's or lessee's agent, trustee, contractor or subcontractor, upon  
32 complying with the provisions of sections 429.010 to 429.340 shall have for such  
33 person's work or labor done, or materials or machinery furnished, a lien upon the  
34 land belonging to such owner or lessee on which the same are situated, to the  
35 extent of [one acre] **three acres**, to secure the payment of such work or labor  
36 done, or materials or machinery furnished as aforesaid.

37 3. Every mechanic or other person who shall do or perform any work or  
38 labor upon, or furnish any material, fixtures, engine, boiler or machinery, for the  
39 purpose of demolishing or razing a building or structure under or by virtue of any  
40 contract with the owner or lessee thereof, or such owner's or lessee's agent,  
41 trustee, contractor or subcontractor, or without a contract if ordered by a city,  
42 town, village or county having a charter form of government to abate the  
43 conditions that caused a structure on that property to be deemed a dangerous  
44 building under local ordinances pursuant to section 67.410, upon complying with  
45 the provisions of sections 429.010 to 429.340, shall have for such person's work  
46 or labor done, or materials, fixtures, engine, boiler or machinery furnished, a lien  
47 upon the land belonging to such owner or lessee on which the same are situated,  
48 to the extent of [one acre] **three acres**. If the building or buildings to be  
49 demolished or razed are upon any lot of land in any town, city or village, then the  
50 lien shall be upon the lot or lots or land upon which the building or other  
51 improvements are situated, to secure the payment for the labor and materials  
52 performed.

53 4. The provisions of sections 429.030 to 429.060 and sections 429.080 to  
54 429.430 applicable to liens of mechanics and other persons shall apply to and  
55 govern the procedure with respect to the liens provided for in subsections 1, 2 and

56 3 of this section.

57 5. Any design professional or corporation authorized to have lien rights  
58 under subsection 1 of this section shall have a lien upon the building or other  
59 improvement and upon the land, whether or not actual construction of the  
60 planned work or improvement has commenced if:

61 (1) The owner or lessee thereof, or such owner's or lessee's agent or  
62 trustee, contracted for such professional services directly with the design  
63 professional or corporation asserting the lien; and

64 (2) The owner or lessee is the owner or lessee of such real property either  
65 at the time the contract is made or at the time the lien is filed.

66 6. Priority between a design professional or corporation lien claimant and  
67 any other mechanic's lien claimant shall be determined pursuant to the  
68 provisions of section 429.260 on a pro rata basis.

69 7. In any civil action, the owner or lessee may assert defenses which  
70 include that the actual construction of the planned work or improvement has not  
71 been performed in compliance with the professional services contract, is  
72 impracticable or is economically infeasible.

73 8. The agreement is in writing.

516.098. [1.] Except where fraud is involved, no action to recover  
2 damages for an error or omission in the survey of land, nor any action for  
3 contribution or indemnity for damages sustained on account of an error or  
4 omission may be brought against any person performing the survey more than  
5 [five years after the discovery of the error or omission] **ten years from the**  
6 **completion of the survey.**

7 [2. This section shall become effective January 1, 1990.]

537.033. 1. **As used in this section, unless the context clearly**  
2 **indicates otherwise, the following words shall mean:**

3 (1) "Design professional", an architect, landscape architect,  
4 professional land surveyor or professional engineer, licensed under the  
5 provisions of chapter 327 or any corporation authorized to practice  
6 architecture, landscape architecture, land surveying, or engineering  
7 under section 327.401 while acting within his or her scope of practice;

8 (2) "Peer review process", a process through which design  
9 professionals evaluate, maintain, or monitor the quality and utilization  
10 of architectural, landscape architectural, land surveying or engineering  
11 services, prepare internal lessons-learned, or exercise any combination  
12 of such responsibilities.

13 2. A peer review process may be performed by the following,

14 each of whom shall be deemed a peer reviewer:

15 (l) An individual design professional or committee of design  
16 professionals appointed by a state, county or local society of design  
17 professionals;

18 (2) An individual design professional or committee of design  
19 professionals appointed by the partners, shareholders, or employed  
20 design professionals of a partnership or of a corporation authorized  
21 under section 327.401;

22 (3) Any individual design professional or committee of design  
23 professionals appointed by the partners, board of directors, chief  
24 executive officer, or the quality control director of a partnership or a  
25 corporation authorized under section 327.401 to practice architecture,  
26 landscape architecture, land surveying, or engineering, or by the owner  
27 of a sole proprietorship engaged in one or more of such professions.

28 3. Each peer reviewer, member of a peer review committee, and  
29 each person, corporate director, partner, quality control director, or  
30 other design professional who testifies before, or provides information  
31 to, acts upon the recommendation of, or otherwise participates in the  
32 operation of, such a process shall be immune from civil liability for  
33 such acts so long as the acts are performed in good faith, without  
34 malice, and are reasonably related to the scope of inquiry of the peer  
35 review process.

36 4. Except as otherwise provided in this section, the interviews,  
37 memoranda, proceedings, findings, deliberations, reports, and minutes  
38 of the peer review process, or the existence of the same, concerning the  
39 professional services provided to a client or member of the public are  
40 privileged and shall not be subject to discovery, subpoena, or other  
41 means of legal compulsion for their release to any person or entity or  
42 be admissible into evidence in any judicial or administrative action for  
43 failure to provide appropriate architectural, landscape architectural,  
44 land surveying, or engineering services. Except as otherwise provided  
45 in this section, no person who was in attendance at or participated in  
46 any peer review process or proceedings shall be permitted or required  
47 to disclose any information acquired in connection with or in the  
48 course of such proceeding, or to disclose any opinion, recommendation,  
49 or evaluation of the peer reviewer or any member of a peer review  
50 committee; provided, however, that information otherwise discoverable  
51 or admissible from original sources shall not be construed as immune

52 from discovery or use in any proceeding merely because it was  
53 presented during proceedings before a peer reviewer, nor shall a  
54 member, employee, or agent involved in any such process, or other  
55 person appearing before a peer reviewer be prevented from testifying  
56 as to matters within his or her personal knowledge and in accordance  
57 with the other provisions of this section; except that, such witness shall  
58 not be questioned about testimony or other proceedings before any  
59 peer review process or peer reviewer or about opinions formed as a  
60 result of such process. The disclosure of any interview, memoranda,  
61 proceedings, findings, deliberations, reports, or minutes to any person  
62 or entity, including but not limited to governmental agencies,  
63 professional accrediting agencies, or other design professionals,  
64 whether proper or improper, shall not waive or have any effect upon  
65 its confidentiality, nondiscoverability, or nonadmissibility.

66 5. Nothing in this section shall limit authority otherwise  
67 provided by law of the Missouri board for architects, professional  
68 engineers, professional land surveyors and landscape architects to  
69 obtain information by subpoena or other authorized process from a  
70 peer reviewer or to require disclosure of otherwise confidential  
71 information developed outside of the peer review process which relate  
72 to matters and investigations within the jurisdiction of such licensing  
73 board.

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